

REMARKS

This Amendment is in response to the outstanding Official Action mailed August 6, 2003, the shortened statutory period for filing a response being set to expire on November 6, 2003. In view of the above amendments and below remarks, reconsideration of the Examiner's rejection is respectfully requested.

The present application as examined included claims 1-52, of which claims 1, 12, 22, 36 and 46 have been presented in independent form. Applicants have added new claims 53-69, of which claims 57, 60, 63 and 66 have been presented in independent form. The Examiner has rejected claims 1,2, 4-6, 8-13, 15-17, 19-26, 28-34, 36, 37, 39-41, 43-47, 49, 50, and 52 under 35 U.S.C. 103(a) as being unpatentable over *Saito et al.*, United States Patent No. 6,022,212 in view of *Kim et al.*, United States Patent No. 5,462,432; and claims 3, 7, 14, 18, 27, 35, 38, 42, 48 and 51 under 35 U.S.C. § 103 (a) as being unpatentable over *Saito et al.* in view of *Kim et al.*, in further view of *Yamasaki*, United States Patent No. 5,531,591. In this regard, the Examiner has rejected all of the independent claims on the ground that it would be obvious to a person skilled in the art to modify *Saito et al.* to "incorporate the slider location and path of movement as taught by" *Kim et al.*

Turning to *Saito et al.*, the Examiner states that the reference teaches all of the features of Applicants' claimed invention but possible does not disclose that the slider is moveable along the trigger body or that the angle of the path is about 50 degrees. It will be demonstrated to the Examiner that the device of *Saito et al.* is irrelevant to Applicants' claimed invention both in construction and operation. Specifically, *Saito et al.* discloses in, for example, Figs. 1-3A, 3B, a housing 6 which supports a moveable trigger 20 having an opening 20C along an upper portion thereof. A separate U-shaped locking

member 25 is moveably biased within the housing via spring 26. As shown in Fig. 1, the locking member has a pair of downwardly depending legs 25B, 25C which extend through separate openings in the housing, one of which is removably received within the opening 20C in the trigger. In order to activate the trigger, one must displace the locking member upwardly so that the leg of the locking member is withdrawn from within the opening in the trigger, See Fig. 3A. Only at that point can the trigger be displaced along a longitudinal axis of the housing which is perpendicular to the direction of movement of the locking member, See Fig. 3B. This construction of *Saito et al.*'s locking member and trigger is contrary to Applicants' claimed invention.

In this regard, it is first noted that the stop member set forth in Applicants' claims is contained within the housing. In *Saito et al.*, the stop member referred to by the Examiner comprises the distal portion of leg 25B which is positioned not within the housing 6, but within the confines of the trigger 20. Thus, the locking function of *Saito et al.* results from the direct interfering relationship between a portion of the trigger and a portion of leg 25B of the locking member. This is contrary to Applicants' claimed invention where the locking function is provided by interference between a portion of the slider which is positioned within the housing in interfering relationship with the stop member also within the housing. Applicants' locking function is not based on the interfering relationship between the slider and its trigger as in *Saito et al.*, but rather the slider and the stop member within the housing.

Furthermore, the slider of Applicants' claimed invention is coupled to the trigger body for movement therealong between the locking and unlocking positions. Accordingly, when the slider is moved to a non-interfering relationship with the stop member,

movement of the trigger between its first and second positions causes movement of the slider therewith. In *Saito et al.*, the locking member 25 is not coupled to the trigger 20. As previously described, the locking member of *Saito et al.* is coupled to the housing, independently from the trigger. In *Saito et al.*, once the locking member has been displaced from interference with the trigger, the trigger is moveable while the locking member stays in its displaced position. For at least the foregoing reasons, Applicants' claimed invention distinguishes over *Saito et al.* Applicants have demonstrated that the device of *Saito et al.* is both different from Applicants' claimed invention in both function and construction to preclude a finding of obviousness over *Saito et al.* either alone or in combination with *Kim et al.*

Having recognized certain deficiencies in *Saito et al.*, the Examiner relies upon *Kim et al.* for showing "trigger (2) including a slider portion (3) that functions to lock and unlock the trigger and is movable along the trigger body", See Figs. 1 and 2 thereof. Contrary to the Examiner's contention, the slider location in Applicants' claimed invention is distinguishable over *Kim et al.* as evident by the location of the slider during depression of *Kim et al.*'s trigger. Specifically, Fig. 2 of *Kim et al.* shows a lighter housing 1 and a separate ignition button 2 at one end of the housing. The ignition button 2 includes a safety button 3 having a depending leg 5 which are wholly contained only within the ignition button 2. That is, as shown in Fig. 2, no part of the safety button including leg 5 are positioned within the housing when the safety button is in the locked position with its leg opposing projection 1C. Only when the ignition button 2 is depressed, is a portion of the leg 5 advanced into the housing, See Fig. 4 of *Kim et al.*

What is clear from Fig. 2 of *Kim et al.* is that there is no portion of the safety button such as its depending leg 5 which is arranged inside of the housing 1 when the lighter is in a locked inoperative state as claimed by Applicants. Contrary to these teachings of *Kim et al.*, the present application claims a portion of the slider to be located inside the housing (Refer to Figure 9B) in interfering relationship with the stop member within the housing, and remains within the housing when the trigger is depressed (Refer to Figure 10B).

The trigger/locking member of *Saito et al.* and *Kim et al.* are clearly contrary to each other. This is not surprising as *Saito et al.* is directed to the construction of a lightning rod device while *Kim et al.* is directed to a conventional cigarette lighter. The overall design of both of these products are entirely different necessitating independent design and construction.

It is illogical to presume that *Saito et al.* could be modified in any meaningful way to incorporate the teachings of *Kim et al.*, and if so, what the resulting device would look like. The Examiner suggests that one skilled in the art would take the safety button of *Kim et al.* and somehow adapt it to the lightning rod device in *Saito et al.* This rejection is clearly ascertained only through hindsight as there is no teaching in either of the references as to how this combination could be accomplished and what the resulting lightning rod device would look like. It is proposed by Applicants that any such combination would substitute the locking member 25 in *Saito et al.* with the safety button 3 of *Kim et al.* In this regard, the safety button would only be coupled to the housing 6 in *Saito et al.* with leg 5 depending downward into opening 20C as the leg of the original locking member 25. There is no other suggestion for a different arrangement. This arrangement is

clearly contrary to Applicants' claimed invention as noted hereinabove. Accordingly, the Examiner's rejection is considered traverse and should therefore be withdrawn.

Newly proposed claims 57-62 and 66-68 include the further limitation in which the housing has first and second opposite ends. The trigger path travels towards the second end, while the slider path travels in a general direction towards the first end, further distinguishing Applicants' invention from the perpendicular movement disclosed in *Saito et al.* for the locking member 25 and *Kim et al.*'s safety button 3. As shown in Fig. 1 of *Saito et al.*, the locking member moves at a 90 degree angle to the path of movement of the trigger 20. Similarly in *Kim et al.*, the safety button 3 moves in a direction which is at an angle of 90 degrees to the path of travel of the ignitor button 2, See Figs. 2 and 4. Thus, Applicants' newly proposed claims 57-62 and 64-68 are further distinguished over the cited prior art.

Additionally, new proposed claims 53-56, 63-65 and 69 and amended claim 22 which is in independent form, include the further limitation in which the slider path is at an oblique angle to the trigger path, thus further distinguishing Applicants' invention from the perpendicular paths disclosed in *Saito et al.* and *Kim et al.*

In considering Applicants' newly proposed claims, it is relevant to keep in mind the advantages resulting from the paths of movement of the trigger and slider. Having the path of movement of the slider to be at an oblique angle to that of the trigger requires the user to possess greater coordination, such that a young child may not have. Thus, Applicants' improved invention operates to further prevent inadvertent ignition of the lighter. Accordingly, all claims pending in this application are deemed allowable over the prior art cited by the Examiner.

In considering Applicants' within response, Applicants designate the dependent claims as being allowable by virtue of their ultimate dependency upon submittedly allowable independent claims. Although Applicants have not separately argued the patentability of each of the dependent claims, Applicants' failure to do so is not to be taken as an admission that the features of the dependent claims are not themselves separably patentable over the prior art cited by the Examiner.

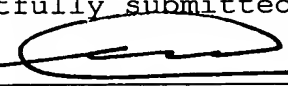
As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: November 6, 2003

Respectfully submitted,

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